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BEFORE THE ARIZONA CORPORATION COMMISSION

2013 JUL 11 P 2:15

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Commissioner
SUSAN BITTER SMITH,
Commissioner
BOB BURNS,
Commissioner

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

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JUL 11 2013

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IN THE MATTER OF THE APPLICATION
OF VAIL WATER COMPANY FOR A
DETERMINATION OF THE FAIR VALUE
OF ITS UTILITY PLANT AND PROPERTY
AND FOR AN INCREASE IN ITS RATES
AND CHARGES BASED THEREON

DOCKET NO. W-01651B-12-0339

EXCEPTIONS

Vail Water Company ("Vail" or "Company") files these Exceptions to the Recommended Opinion and Order ("ROO") dated July 2, 2013. Vail seeks an amendment to the ROO to clarify the basis for the surcharge calculation credit in relation to the sale of Long Term Storage Credits. Specifically, Vail requests that the Commission's Order follow the language of Component 6 of the Plan of Administration ("POA") and Section 2.4 of the Settlement Agreement as agreed to by Vail and Commission Staff. Component 6 of the POA provides that, as part of the CAP surcharge calculation, Vail's customers will share fifty percent of the "profit resulting from the sale of Long Term Storage Credits to third parties."¹ Section 2.4 of the Settlement Agreement provides that the recharge credits must be priced "at a minimum,

¹ The sharing of fifty percent of the profits was a concession by the Company agreed to as part of the negotiations with Commission Staff.

1 to recover the direct costs of CAP water, including recognition of the Department of
2 Water Resources' ("ADWR") 5% cut to the aquifer."

3 Based on its review of Vail's prior sales of Long-Term Storage Credits, and as
4 evidenced by the parties' Settlement Agreement, Commission Staff believed that this
5 standard provided adequate protection. Vail strongly agrees that this standard provides
6 adequate protection given that this is the sale of an asset of the Company purchased with
7 funds the Commission determined in its prior decision were part of the Company's
8 revenue requirement. *See* ROO at 4, 9. Furthermore, given the lack of any robust, public
9 market for these Storage Credits, Vail does not believe that the use of a market value
10 standard will provide benefit for purposes of Staff's review.

11 As a result, Vail respectfully requests that the Commission make clear that the
12 sharing as part of Component 6 of the POA is fifty percent of the **profits** and that the
13 order reflect that any sales of Storage Credits shall be at or above cost. Attached as
14 **Exhibit 1** is proposed amendment language to accomplish these revisions.

15 If the Commission believes that Vail should provide additional evidence to
16 demonstrate that the Storage Credits were sold at an appropriate price, Vail requests that
17 the Commission provide further clarity as to how that should be demonstrated. As noted
18 above, Vail is not aware of any robust, public market for the sale of these credits. Vail
19 is, however, aware of two recent purchases of Long Term Storage Credits from utilities
20 by CAWCD.² If the Commission desires that Vail provide additional support for the
21 price used for the sale of the Storage Credits, Vail believes that this type of evidence is
22 proper to establish that Vail's sale was at an appropriate price. Attached as **Exhibit 2** is

23
24 ² Both of these sales were at \$138 per acre foot:
25 [http://www.cagrd.com/documents/acquisitions/LPSCO%20P%20and%20S%20Agreement%20for%20LTS](http://www.cagrd.com/documents/acquisitions/LPSCO%20P%20and%20S%20Agreement%20for%20LTS%20C%206-6-2013.pdf)
26 [C%206-6-2013.pdf;](http://www.cagrd.com/documents/acquisitions/Gold%20Canyon%20Sewer%20Co%20P%20and%20S%200Agreement%20for%20LTSC%204-1-2013.pdf)
[http://www.cagrd.com/documents/acquisitions/Gold%20Canyon%20Sewer%20Co%20P%20and%20S%200Agreement%20for%20LTSC%204-1-2013.pdf.](http://www.cagrd.com/documents/acquisitions/Gold%20Canyon%20Sewer%20Co%20P%20and%20S%200Agreement%20for%20LTSC%204-1-2013.pdf)

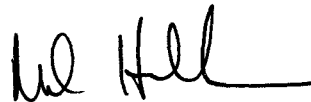
1 proposed language that would clarify both that the sharing as part of Component 6 of the
2 POA is fifty percent of the *profits* of any sale and that would provide clarity as to how
3 Vail should demonstrate that it has maximized the value of the sale of Storage Credits.

4 CONCLUSION

5 For the reasons set forth above, Vail respectfully requests that the Commission
6 adopt amendment language confirming that the sharing under Component 6 of the Plan of
7 Administration for the CAP surcharge is fifty percent of the *profit* from any sale of Long
8 Term Storage Credits and that any sale be at or above cost. If, in the alternative, the
9 Commission wishes to have Vail provide additional evidence that the price of the sales is
10 appropriate, Vail requests that the Commission clarify the type of evidence to be provided,
11 which should include other publicly available sales of Storage Credits.

12
13 RESPECTFULLY SUBMITTED this 11th day of July, 2013.

14 LEWIS AND ROCA

15 

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20 Phoenix, Arizona 85004
21 Attorneys for Vail Water Company

22 ORIGINAL and thirteen (13) copies
23 of the foregoing filed this 11th day of
24 July, 2013 with:

25 Arizona Corporation Commission
26 Docket Control – Utilities Division
1200 W. Washington Street
Phoenix, Arizona 85007

1 Copy of the foregoing mailed
2 this 11th day of July, 2013 to:

3 Jane L. Rodda
4 Administrative Law Judge
5 Hearing Division
6 Arizona Corporation Commission
7 400 West Congress St., #218
8 Tucson, AZ 85701

9 Copy of the foregoing hand-delivered
10 this 11th day of July, 2013 to:

11 Chairman Bob Stump
12 Arizona Corporation Commission
13 1200 W. Washington Street
14 Phoenix, AZ 85007

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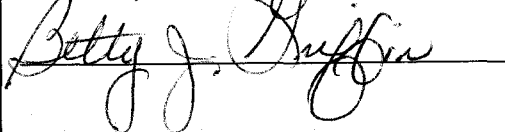


EXHIBIT 1

Page 15, Lines 26 to Page 16, Line 8

DELETE language beginning with "except"

Page 17, Lines 22 to 23

DELETE: "of the higher of the sales price or fair market value of the Storage Credits in the calculation of the CAP surcharge."

INSERT: "of the profit received from the sale of any Long Term Storage Credits. The Storage Credits shall be priced, at a minimum, to recover the direct costs of CAP water, including recognition of the Department of Water Resources' ("ADWR") 5% cut to the aquifer."

Exhibit 2

Page 16, Lines 3 to 4.

DELETE: "by crediting them with the higher of the sales price (always at or above cost) or the market value of the credits."

Page 16, Line 8

INSERT: "To make this showing, VWC may provide publicly available evidence of sales of Storage Credits, including sales by other utilities or third parties to CAWCD."

Page 17, Lines 22 to 23

DELETE "of the higher of the sales price or fair market value of the Storage Credits in the calculation of the CAP surcharge."

INSERT "of the profit received from the sale of any Long Term Storage Credits. The Storage Credits shall be priced, at a minimum, to recover the direct costs of CAP water, including recognition of the Department of Water Resources' ("ADWR") 5% cut to the aquifer."